

BOARD OF SELECTMEN Meeting  
Tuesday, April 14, 2015

A meeting of the Rockport Board of Selectmen was held at 6:30 pm in Conference Room A in Town Hall with five selectpersons, the Town Administrator and the Asst. Town Administrator.

6:30 Meeting Called to Order

6:41 Executive Session – Confidential Information: Selectperson Murphy moved that the Board of Selectmen enter Executive Session under MGL Chapter 30A, §21(a) for Exception #10 to discuss confidential information regarding activities by a governmental body, seconded by Selectperson Sheedy, roll call vote: Selectperson Battiselli – aye, Selectperson Lucas – aye, Selectperson Murphy – aye, Selectperson Sheedy – aye, Chairperson Wilkinson – aye, all in favor.

Executive Session:  
Confidential Information.  
Motion  
Approved

7:00 Pledge of Allegiance and Moment of Silence

7:10 National Grid Utility Hearing: Selectperson Lucas moved that the Board of Selectmen open a National Grid Utility Hearing to hear public comments pertaining to the National Grid's February 19, 2015 petition to construct a line of underground electric conduits including associated fixtures across Granite Street, Selectperson Sheedy seconded, Vote: 4-0. Selectperson Battistelli abstained and recused herself. Chairperson Wilkinson read public posting.

Open National Grid Public Hearing – Granite Street Motion Approved

Peter Glenn from National Grid, 44 River St., Beverly, said he is seeking permission to install 40' conduit across Granite Street, from pole 1060, the owner is Roma. P. Glenn said he invited the excavator to attend tonight's meeting, but they are not present. He said he is not aware of the schedule for installing the conduit.

Public comment: none

Selectperson Sheedy moved to close the hearing, seconded by Selectperson Lucas, Vote: 4-0.

Close public hearing – Motion Approved

Selectperson Sheedy moved that the Board of Selectmen grant permission to National Grid to excavate the public highways and to run and maintain underground electrical conduits together with such sustaining and protecting fixtures as it may find necessary for the transmission of electricity to be located substantially in accordance with the plan that they filed with their letter dated 2/19/15, seconded by Selectperson Lucas, Vote: 4-0. Selectperson Battistelli abstained and recused herself.

Grant Permission to run and maintain underground electrical conduits Motion Approved

7:30 Alcohol License Hearing for the Atlantic Pizza Company: Selectperson Lucas moved that the Board of Selectmen open a Public Hearing on the application of Atlantic Pizza Company, LLC at 4 Harbor Road, for an annual license to sell alcoholic beverages, Selectperson Murphy seconded, Vote: 4-0. Selectperson Sheedy recused herself as she has represented the applicant on an unrelated matter.

Open Alcohol License Public Hearing for Atlantic Pizza Motion Approved

Chairperson Wilkinson read the public notice. Robert Visnick was present and is representing the applicant.

R. Visnick said there have been discussions about actively trying to encourage year round restaurants in town, since 2011 this Bearskin Neck restaurant has been serving homemade pizza and salads. There is a requirement for how long the restaurant must be open each year. The Asst. Town Administrator said the CORI is pending.

Public Comments

Public comments: T. Arsenian questioned if there are public bathrooms. R. Visnick said they have ADA compliant bathrooms. Peggy Coonley, Bearskin Neck, asked with the new license regulations, can people get a drink alone. Chairperson Wilkinson said it's the same license as last summer. M. Coonley asked if there is going to be standard criteria and will hours of operation be part of the criteria? R. Visnick said Rockport has detailed regulations; they are on the website. John Coonley questioned if the license will be upgraded if the new regulations are approved. Chairperson Wilkinson said licenses do not need to be reissued.

Cynthia Mallette, Granite St., Pigeon Cove, said she hopes that the Board can get a more definitive explanation of annual licenses from the state. Information is needed on what annual licenses mean. R. Visnick said year round restaurants should be open most days of the week. T. Arsenian said at town meeting it was stated more alcohol licenses would be great for the town, he would like this explained to him. It was stated that the town receives the initial application fee and the annual renewal fees as well as the meals tax.

Motion to close  
hearing, Motion  
Approved

Selectperson Murphy moved to close the hearing, seconded by Selectperson Lucas, Vote: 4-0, Selectperson Sheedy abstained and left the room.

Open Alcohol  
License Hearing  
for Asuka  
Restaurant  
Motion Approved

7:58 Alcohol License Hearing for the Asuka Restaurant: Selectperson Sheedy moved that the Board of Selectmen open a Public Hearing on the application of Asuka Chinese and Japanese Restaurant, Inc., for an annual license to sell alcoholic beverages, at 3-5 Main Street, Selectperson Lucas seconded, Vote: 3-0, Selectperson Murphy left the meeting and Selectperson Sheedy abstained and left the room as she has represented the applicant on unrelated matters. Chairperson Wilkinson read the public notice in the paper.

Robert Visnick is present and representing the applicant. He said the restaurant was previously Midori II, they run a Gloucester restaurant. Selectperson Murphy returned to the room at 8:01. The maximum capacity is 45 patrons; their proposed opening date is July 4. This still needs to go to the state which can take more time. This is a nonconforming lot; they had to get a variance. The site used to be a gallery, it is now a restaurant. The closing for the building is subject to all the permits.

Public Comment

Public comment: Peggy Coonley questioned what happens if the year round status isn't maintained. R. Visnick said the local board has the authority to suspend or do whatever is necessary for any businesses that aren't complying with their licenses.

Motion to Close  
Public Hearing  
Motion Approved

Selectperson Lucas moved to close the public hearing, seconded by Selectperson Murphy, Vote: 4-0, Selectperson Sheedy abstained and left the room.

Approval of  
Asuka Restaurant  
Annual Alcohol  
License Hearing  
Motion Approved

Selectperson Murphy moved that the Board of Selectmen approve the Asuka Chinese and Japanese Restaurant's application for an annual license to sell alcohol beverages at the Asuka Chinese and Japanese Restaurant at 3-5 Main Street, seconded by Selectperson Battistelli, Vote: 4-0. Selectperson Sheedy recused herself because she has represented the applicants in unrelated matters.

Interview of Diane Derow for the Council on Aging: Selectperson Sheedy nominated Diane Derow as a member of the Council on Aging to fill the term expiring on June 30, 2018,

Selectperson Murphy seconded; the vote will be taken at a subsequent meeting. She lives on Forrest Street in Rockport; recently located to Rockport. She said she came here as a child and has been here off and on for years. She said she has worked in social services, and was appointed to the COA in Stoneham several years ago.

Nomination of  
Diane Derow  
COA member  
No vote taken.

Approval of Minutes of March 24, 2015: Selectperson Battistelli moved that the Board of Selectmen approve the minutes of March 24, 2015, Selectperson Murphy seconded, Vote: 5-0. Selectperson Lucas said on page 4, under the \$25,000 for the Economic Development Committee, remove comment about this being a “one time investment”.

Approval of  
3/24/15 Meeting  
Minutes  
Motion Approved

Release of Executive Session Minutes: Selectperson Lucas moved that the Board of Selectmen release the Executive Session Minutes of September 8, 2009, September 22, 2009 and November 10, 2009, subject to any redactions necessary pursuant to either the attorney-client privilege or the provisions of G.L. c. 4 sec. 7(26), Selectperson Battistelli seconded, Vote: 5-0.

Release of  
Executive Session  
Minutes  
Motion Approved

Selectperson Murphy stepped out of the room.

Selectperson Lucas moved that the Board of Selectmen release the Executive Session Minutes of February 9, 2010, May 25, 2010, and August 24, 2010, subject to any redactions necessary pursuant to either the attorney-client privilege or the provisions of G.L. c. 4 sec. 7(26), Selectperson Battistelli seconded, Vote: 4-0.

Release of  
Executive Session  
Minutes, 2010  
Motion Approved

Selectperson Murphy re-entered the room.

Selectperson Lucas moved that the Board of Selectmen release the Executive Session Minutes of March 22, 2011 and November 29, 2011 subject to any redactions necessary pursuant to either the attorney-client privilege or the provisions of G.L. c. 4 sec. 7(26), Selectperson Battistelli seconded, Vote: 5-0.

Release of  
Executive Session  
Minutes, 2011  
Motion Approved

Selectperson Lucas moved that the Board of Selectmen release the Executive Session Minutes of March 6, 2012 and September 4, 2012 subject to any redactions necessary pursuant to either the attorney-client privilege or the provisions of G.L. c. 4 sec. 7(26), Selectperson Sheedy seconded, Vote: 5-0.

Release of  
Executive Session  
Minutes, 2012  
Motion Approved

Selectperson Lucas moved that the Board of Selectmen release the Executive Session Minutes of April 30, 2013 subject to any redactions necessary pursuant to either the attorney-client privilege or the provisions of G.L. c. 4 sec. 7(26), Selectperson Murphy seconded, Vote: 5-0.

Release of  
Executive Session  
Minutes, 2013  
Motion Approved

Selectperson Lucas moved that the Board of Selectmen release the Executive Session Minutes of June 10, 2014 and May 13, 2014 subject to any redactions necessary pursuant to either the attorney-client privilege or the provisions of G.L. c. 4 sec. 7(26), Selectperson Sheedy seconded, Vote: 5-0.

Release of  
Executive Session  
Minutes, 2014  
Motion Approved

Selectmen Updates and Liaison Reports:

Public Comment Period: T. Arsenian, 95 Granite St., said in the Annual report, page 24, there is a list of legal cases, one is the Landing Group vs. Commonwealth of Mass., re: 1830 statute. He said the town residents don't hear about these things in a timely manner. He said in the Town Meeting Voter's Booklet, page 50, at the end of Article 5, it was reduced to five lines; it is the largest piece of the budget and is out of order with the others. He doesn't

Public Comment  
Period

believe this is being clarified for the voters. Chairperson Wilkinson responded on the Landing Group vs. Comm. of Mass., she said this was brought up at prior meetings, particularly at the March 24 meeting. Selectperson Battistelli said we make an effort to talk to Ben Lynch/DEP regularly and we're doing our due diligence.

C. Mallette asked several questions: How many seasonal and how many annual licenses exist currently? Is the town obligated to issue a permit if the applicant has gone through all the necessary requirements, (Board of Health, parking, etc.)? Would it have gone on the ballot the way it is supposed to? Can you stop the issuing of a permit? If the town has 30, is there a cap? Chairperson Wilkinson said we don't have this information tonight, but we can get the information. The Town Administrator said that 30 licenses is the cap, they are issued by the ABCC; they are not obligated to approve them. The Town Administrator said there is some discretion to approve or disapprove. We could say we're denying a license because we're comfortable with the number of establishments we have; it's a right, not a privilege. Chairperson Wilkinson said we don't have to vote for anything we don't want to; we aren't forced to vote for a specific license. Eric Hutchins, Poole's Lane, said he tried to bring this up at town meeting. He asked at Town Meeting, what is the level of impact of the extra permits now? He said this town has never felt the pain of all of the permits being used. He said we have increased the viability for the permits, the town should have felt the impact first. Chairperson Wilkinson said this was a petition article. E. Hutchins said he was supportive of this in general, but no one had the answers at town meeting. He inquired was there any study on the impact of more licenses. He said how about drop five of the other licenses before approving these new five. Cynthia Mallette said Town Meeting was the only forum where she could ask to reduce the number of licenses. The Town Administrator said Rockport has to have a special act for our licenses. She said in 2005 we had a special act for the 20 and 10. Then the petitioners came up with the beer and wine licenses, they put one clause in to amend all licenses to not have to be seated. In order to reduce the number from 2005 we would need another special act to amend that. At town meeting you can only amend what is on the floor. Chairperson Wilkinson said when a petition is created a certain number of people sign it, it can't be changed after that; it's not lawful to change it. Harold Mallette, 133R Granite Street, said with the petition license, now we have 36 licenses. Chairperson Wilkinson said we could have up to 36 licenses, but we don't have to have that many. T. Arsenian said at a hearing all available information relevant to alcohol should be available. The Town Administrator said she will put together an information sheet with answers to all these general questions; that will be available.

T. Arsenian, 95 Granite St. spoke about the Millbrook Meadow presentation tonight. He's told it was in the paper one day, he said he thinks it's unfortunate that the meeting isn't being sponsored by an impartial group, rather than the Millbrook Meadow Committee.

Town Administrator's Report: working on parking meter replacements moving forward.

## 8:10 Action List

### Action List:

Display Cannon &  
USS Constitution  
Master Gun Crew  
Demonstrations  
Motion Approved

- Permission to Display Cannon and USS Constitution Master Gun Crew Demonstrations: Selectperson Murphy moved that the Board of Selectmen grant permission to the Rockport Navy Committee the use of the ten parking spaces at the end of Bearskin Neck for a cannon display as well as USS Constitution Master Gun Crew Demonstrations on July 11th and 12th, 2015, Selectperson Sheedy seconded, Vote: 5-0. R. Lesch said, this year, we have to bring the gun on Friday and remove it on Sunday.
- Permission to use T Wharf for EMS Day: Selectperson Sheedy moved that the Board of Selectmen grant permission to the Rockport Ambulance Department the use of T Wharf

on Sunday, May 17, 2015 from 12 noon to 3 pm, Selectperson Murphy seconded, Vote: 5-0.

Permission to use  
T Wharf on EMS  
Day, Motion  
Approved

- 24 Old County Road Renovation Approval: Selectperson Battistelli moved that the Board of Selectmen approve the renovations to 24 County Road as requested by Charles Tarbell and Janice Mirabassi and as depicted on a plan entitled “24 Old County Road, Rockport, MA” by Fennell Engineering, Inc. dated February 5, 2015 and as reviewed by the Building Inspector on March 19, 2015, Selectperson Murphy seconded, Vote: 5-0.
- Special Sign Permit for David Ford: Selectperson Lucas moved that the Board of Selectmen approve a special sign permit for David Ford for “What the....?” located at 37 Bearskin Neck, Selectperson Sheedy seconded; Vote: 0-5; not approved. The sign is larger than what is permissible, the requested sign is 18 square feet; the maximum allowed is 10 square feet.
- Rockport High School Apartments Consent Amendment: Selectperson Murphy moved that the Board of Selectmen approve and sign a Consent Amendment to the Master Subordination Agreement for Rockport High School Apartments loan refinancing, Selectperson Sheedy seconded, Vote: 5-0.
- Outdoor Display Permit Renewals: Selectperson Sheedy moved that the Board of Selectmen renew the Outdoor Display Permit for the Wicked Peacock at 17 Dock Square; China Gifts International at 1 Bearskin Neck; China Gifts International at 23 Bearskin Neck; Good Dog Gallery at 49 Bearskin Neck; Kaihlanen Gallery at 61-63 Bearskin Neck; The Blue Lantern at 29-31 Bearskin Neck; and the John Tarr Store at 49 Main Street, subject to the original display permits as issued. Selectperson Murphy seconded, Vote: 5-0. The Town Administrator said we can attach a photo of what was approved with the license.
- Warrant for Annual Town Election: Selectperson Battistelli moved that the Board of Selectmen approve and sign the Warrant for the Annual Town Election, Selectperson Murphy seconded, Vote: 5-0.

Approve  
renovations on 24  
Old County Road  
Motion Approved

Special Sign  
Permit for David  
Ford  
Motion Denied

Consent  
Amendment  
Rockport High  
School Apts  
Motion Approved

Outdoor Display  
Permit Renewals  
Motion Approved

Warrant for  
Annual Town  
Election  
Motion Approved

#### 8:30 Selectmen Briefing

Millbrook Meadow Committee: Barbara Sparks, Sam Coulbourn, Eric Hutchins, Gunilla Caulfield and Frederick Tarr are in attendance. There is a public meeting tomorrow night on Millbrook Meadow at the library at 7pm. S. Coulbourn said this property is a four acre park downtown, the Garden Club gave it to the town in 1938. He said the master plan has been produced, they have applied to the CPC to finish the project. The willows were cut down on 4/2/15; new willows or other species is being investigated. Barbara Sparks spoke about Master Plan; she said the plan is on the town website and in the library. Two design concepts have been presented; a third concept has been developed by combining the best of both of the initial concepts. The theme is “keep it simple”. Elements of the restoration plan are: 1) dredge the pond, 2) rebuild water course, 3) replace the willows, 4) grade and reshape the meadow to reduce flooding 5) rain gardens to absorb water run-off, 6) rebuild the meadow path, 7) plant, 8) refurbish the playground, 9) make the frog pond more accessible, 10) boardwalk, 11) water & electricity.

Selectmen  
Briefing

Millbrook  
Meadow  
Committee

We are now in Phase 3, design and development. CPC has the application, construction is to begin in 2016; the cost will be \$1,291,000. Doing the work all at one time has a lot of advantages. We are working with DPW and MMI. She said they are requesting a letter of support from the Board of Selectmen. Tomorrow, at the library, is a PowerPoint presentation and a question and answer period.

T. Arsenian, 95 Granite St. questioned the access and handicapped parking when it comes down to King Street, he asked if Mill Lane is going to be open, can people drive along the edge of the pond over to King Street. B. Sparks said the access will be from King Street only; you can't drive across the dam.

8:50 Other Business/Announcements: Chairperson Wilkinson said several renewal applications have been received from street performers. She said she had asked the office to pull together any existing licenses and submit them together for a renewal. Selectperson Murphy said any new license applications should come before the board.

9:30 Selectperson Murphy moved to adjourn, seconded by Selectperson Sheedy, Vote: 5-0.

**Warrant Signed:**

Warrant signed for the Fiscal Year 2015 Payroll and Expenses for the week of April 16, 2015 in the amounts of \$496,108.02 and \$763,229.03 respectively.

**Items Signed:**

Form 43, Alcoholic Beverages, Asuka Chinese & Japanese Restaurant  
Common Victualler, Asuka Chinese and Japanese Restaurant  
Form 43, Alcoholic Beverages, Atlantic Pizza  
Common Victualler's License, Atlantic Pizza  
Warrant for Annual Town Election  
John Tarr Store, Outdoor Display  
The Blue Lantern, Outdoor Display  
Kaihlansen Gallery, Outdoor Display  
Good Dog Gallery, Outdoor Display  
China Gifts International, Outdoor Display  
China Gifts International, Outdoor Display  
Wicked Peacock, Outdoor Display  
Home Investment Partnerships (HOME) Program  
My Place by the Sea, Common Victualler's License  
Aud Froystein Antiques, buying and selling antiques and used merchandise  
Lobster Pool, Common Victualler's License  
The Lobster Pool, entertainment license  
National Grid, Ma Plan 17887719  
Lodging House License, The Seaward Inn  
MOU Police Officers